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Notification No. B 40 — The Stamp Duties (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 31st day of October 2002.

Stamp Duties (Amendment) Bill

Bill No. 40/2002.

Read the first time on 31st October 2002.

A BILL

i n t i t u l e d

An Act to amend the Stamp Duties Act (Chapter 312 of the 2000 Revised Edition) and to make consequential amendments to other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title, commencement and application

1.—(1) This Act may be cited as the Stamp Duties (Amendment) Act 2002 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

- 5 (2) Sections 3, 5, 6(b), 9(c), (d) and (e), 10 and 11 shall not apply to instruments made before the date of commencement of this Act.

Amendment of section 2

2. Section 2 of the Stamp Duties Act (referred to in this Act as the principal Act) is amended by deleting the definition of “contract note”.

Amendment of section 16

3. Section 16 of the principal Act is amended by inserting, immediately after subsection (3), the following subsections:

“(3A) For the purpose of subsection (3) —

- 15 (a) a conveyance or transfer shall be treated as a conveyance or transfer made in consideration of marriage if —
- (i) the transferor is a party to the marriage or is a parent, grandparent or sibling of a party to the marriage;
 - (ii) the transferee is a party to the marriage;
 - 20 (iii) the property or interest in the property conveyed or transferred is the matrimonial home of the parties to the marriage;
 - (iv) the property or interest in the property is conveyed or transferred within the specified time period; and
 - 25 (v) there is no other property or interest in the property conveyed or transferred to the parties on the occasion of that marriage in respect of which ad valorem duty has not been charged because marriage was the consideration; and
 - 30 (b) a conveyance or transfer shall not be treated as a conveyance or transfer made in consideration of marriage if —
 - (i) the marriage is between 2 parties who had previously been married to each other; and

- (ii) ad valorem duty was not charged on any property or interest in the property conveyed or transferred to the parties on the occasion of the previous marriage because marriage was the consideration.

5 (3B) In subsection (3A) —

“parent”, in relation to a party to the marriage, means —

- (a) a natural parent of the party;
 - (b) a person by whom the party was adopted in accordance with any written law relating to the adoption of children;
- 10 or

- (c) a step-parent of the party,

and “grandparent” shall be construed accordingly;

“specified time period” means —

- (a) one year before or after the date of solemnization of a marriage; or
 - (b) such other time period as may be prescribed in lieu of the time period specified in paragraph (a).”.
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Amendment of section 22A

- 4. Section 22A(3) of the principal Act is amended by inserting, immediately after the word “effected” in the 3rd line, the words “or agreed to be effected”.
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Repeal and re-enactment of section 33

- 5. Section 33 of the principal Act is repealed and the following section substituted therefor:

“Directions as to disposal of shares in certain circumstances

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33. Where a disposal of shares in a company by a transferor to a transferee is effected by —

- (a) the cancellation of the shares of the transferor in the company; and

(b) the issue of new shares in that company to the transferee, such disposal of shares shall be treated as a transfer of shares from the transferor directly to the transferee and ad valorem duty shall be charged on any instrument that, in the opinion of the Commissioner, effects, whether directly or indirectly and whether wholly or partially, any arrangement for the disposal of the shares.”.

Amendment of section 36

6. Section 36 of the principal Act is amended —

- (a) by inserting, immediately after the word “liable” in paragraph (a), the words “under section 34”;
- (b) by deleting the word “and” at the end of paragraph (d); and
- (c) by deleting paragraph (e) and substituting the following paragraphs:
 - “(e) any instrument executed by or on behalf of or in favour of a co-operative society registered under the Co-operative Societies Act (Cap. 62) or executed by an officer or member of any such co-operative society and relating solely to the business of the co-operative society where, but for this exemption, the co-operative society would be liable under section 34 to pay the duty chargeable on that instrument;
 - (f) any instrument whereby any security is assigned, transferred or negotiated to the Monetary Authority of Singapore (whether on sale or otherwise) under the Exchange Control Act (Cap. 99);
 - (g) any instrument made by the Collector of Land Revenue under the Land Acquisition Act (Cap. 152);
 - (h) any deed, conveyance, assignment or other assurance which relates solely to immovable property or to any mortgage, charge or other encumbrances on, or any estate, right or interest in, any immovable property or stock or shares which are part of the estate of any bankrupt (including any debtor proceeded against under the Bankruptcy Act (Cap. 20)), and which, after the

execution of the instrument, either at law or in equity, is or remains the estate of the bankrupt (including any debtor proceeded against under that Act) or of the Official Assignee, and any bond or other instrument relating solely to the property of any bankrupt; and

- (i) any instrument of transfer lodged under section 125 or 126 of the Land Titles (Strata) Act (Cap. 158) except where the transfer relates to any designated land as defined in section 126A of that Act.”.

10 **Amendment of section 37**

7. Section 37 of the principal Act is amended —

- (a) by deleting the words “, upon payment of the relevant adjudication fee prescribed in the Fourth Schedule,” in the 5th and 6th lines of subsection (1); and

- 15 (b) by inserting, immediately after subsection (1A), the following subsection:

“(1B) The person seeking the opinion of the Commissioner under subsection (1) as to the amount of duty chargeable shall pay the relevant adjudication fee prescribed in the Fourth Schedule at such time as the Commissioner may determine, and such fee shall remain payable notwithstanding that he subsequently withdraws his application for adjudication.”.

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Amendment of section 39A

- 25 **8.** Section 39A(1) of the principal Act is amended by deleting the words “section 37” and substituting the words “any provision of this Act”.

Amendment of First Schedule

9. The First Schedule to the principal Act is amended —

- (a) by deleting sub-paragraph (i) of Article 3(g) and substituting the following sub-paragraph:

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“(i) the beneficial interest in the property passes

The same duty as in paragraph (a), (b) or (c), as the case may be”;

- (b) by inserting, immediately after paragraph (g) of Article 3, the following paragraph:

“(h) of any property or any interest thereof which is distributed in specie to a shareholder of a company by the liquidator of the company after the liabilities of the company have been satisfied —

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| <p>(i) where the shareholder became a shareholder of the company only after the winding up proceedings had commenced</p> <p>(ii) in any other case</p> | <p>The same duty as in paragraph (a), (b) or (c), as the case may be</p> <p>\$10”;</p> |
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- (c) by relettering the existing paragraph (h) of Article 3 as paragraph (i);

- (d) by inserting, immediately below Article 5 under the heading “*Description of Instrument relating to immovable property and stock or shares*”, the following words:

“*Exemption:*

The duplicate or counterpart of any instrument which has been exempted from duty or in respect of which duty has been remitted”;
and

- (e) by deleting Article 6 and substituting the following Article:

“6 EXCHANGE

Any instrument whereby immovable properties are exchanged or agreed to be exchanged

The same duty as for a conveyance on sale for each of the immovable properties in the exchange”.

Amendment of Third Schedule

10. The Third Schedule to the principal Act is amended by deleting Articles 2 and 3 and substituting the following Articles:

“2	CONVEYANCE	—	Article No. 3(a),	The grantee, transferee or lessee
			(c) to (i)	
			Article No. 3(b)	The grantor, transferor or lessor
3	EXCHANGE	—	Article No. 6	Same as a conveyance”.

Consequential amendments to other written laws

11. The provisions of the Acts specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

THE SCHEDULE

CONSEQUENTIAL AMENDMENTS

<i>First column</i>	<i>Second column</i>
(1) Bankruptcy Act (Chapter 20, 2000 Ed.) Section 159	 Repeal
(2) Exchange Control Act (Chapter 99, 2000 Ed.) Section 44	 Repeal
(3) Land Acquisition Act (Chapter 152, 1985 Ed.) Section 52	 Repeal
(4) Land Titles (Strata) Act (Chapter 158, 1999 Ed.) (a) Section 126A(7)	 To delete the words “sections 126B and 129” and substitute the words “section 126B”
(b) Section 129	Repeal

*First column**Second column*

(5) Trustees Act
(Chapter 337, 1999 Ed.)
Section 73

Repeal.

EXPLANATORY STATEMENT

The Bill seeks to amend the Stamp Duties Act (Cap. 312) and to make consequential amendments to other written laws.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 by deleting the definition of “contract note” which is redundant as no duty is now payable in respect of contract notes.

Clause 3 amends section 16 to provide the criteria to be satisfied in order for a transfer of property to be treated as being made in consideration of marriage.

Clause 4 amends section 22A(3) to clarify that an agreement for the exchange of immovable properties is to be chargeable with ad valorem stamp duty.

Clause 5 repeals section 33 which is redundant as contract notes have ceased to be subject to stamp duty. The clause enacts a new section 33 to prevent the avoidance of stamp duty on the disposal of shares in a company through the cancellation of existing shares and the re-issue of new shares in the company.

Clause 6 amends section 36 to provide that the existing exemption from stamp duty is applicable to any instrument executed by or on behalf of or in favour of a co-operative society registered under the Co-operative Societies Act (Cap. 62) only if the co-operative society is liable to pay the duty. The clause also consolidates in that section the provisions in other Acts by which various instruments are exempt from stamp duty.

Clause 7 amends section 37 to enable the Commissioner to collect the adjudication fee for adjudication on any instrument at such time as he may determine. The new subsection (1B) also provides that such adjudication fee is payable notwithstanding that the application for adjudication is subsequently withdrawn.

Clause 8 amends section 39A(1) to require objections to any assessment by the Commissioner made under the Act (including any assessment in connection with section 16(3)) to be made in accordance with the provisions of section 39A.

Clause 9 amends the First Schedule to provide for —

- (a) the payment of seller’s stamp duty in certain transactions involving trustees;
- (b) the charging of ad valorem stamp duty on the instrument in respect of a conveyance, assignment or transfer of immovable property or shares or any

interest thereof to a person who becomes a shareholder of a company after the winding up of the company has commenced;

- (c) the exemption from ad valorem duty for a duplicate or counterpart of an instrument which has been exempted from such duty or in respect of which duty has been remitted; and
- (d) certain consequential amendments.

Clause 10 makes consequential amendments to Articles 2 and 3 of the Third Schedule.

Clause 11 (to be read with the Schedule) makes consequential amendments to certain other Acts following the amendments to section 36 made by clause 6.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
